

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

GARY ALLEN BURTON,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:24-cv-1263-MHH-GMB
)	
GWENDLYN BABERS,)	
)	
Respondent.)	

MEMORANDUM OPINION


On June 9, 2025, the Magistrate Judge entered a report in which he recommended that the Court dismiss Gary Allen Burton’s petition for writ of habeas corpus without prejudice because Mr. Burton’s petition is unexhausted. (Doc. 19). The Court has not received objections to the report.

Having reviewed the record, the Court adopts the Magistrate Judge’s report and accepts his recommendation. Consistent with that recommendation, by separate order, the Court will dismiss Mr. Burton’s petition for writ of habeas corpus without prejudice for failure to exhaust.

A district court may issue a certificate of appealability “only if the applicant has a made a substantial showing of the denial of a constitutional right.” 28 U.S.C. 2253(c)(2). To make such a showing, a “petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims

debatable or wrong,” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), or that “the issues presented were adequate to deserve encouragement to proceed further,” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotations omitted). Because Mr. Burton has not satisfied either standard, the Court will not issue a certificate of appealability.

DONE and **ORDERED** this July 2, 2025.



MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE